

§ 865.110

considered in the previous discharge review. If this comparison shows that the evidence submitted would have had a probable effect on matters concerning the propriety or equity of the discharge, the request for reconsideration shall be granted.

§ 865.110 Decision process.

(a) The DRB shall meet in plenary session to review discharges and exercise its discretion on a case-by-case basis in applying the standards set forth in this regulation.

(b) The presiding officer is responsible for the conduct of the discharge review. The presiding officer shall convene, recess, and adjourn the DRB as appropriate, and shall maintain an atmosphere of dignity and decorum at all times.

(c) Each board member shall act under oath or affirmation requiring careful, objective consideration of the application. They shall consider all relevant material and competent information presented to them by the applicant. In addition, they shall consider all available military records, together with such other records as may be in the files and relevant to the issues before the DRB.

(d) The DRB shall identify and address issues after a review of the following material obtained and presented in accordance with this subpart and 32 CFR part 70: available official military records, documentary evidence submitted by or on behalf of the applicant, presentation of testimony by or on behalf of the applicant, oral or written arguments presented by or on behalf of the applicant, and any other relevant evidence.

(e) Application of Standards:

(1) When the DRB determines that an applicant's discharge was improper, the DRB will determine which reason for discharge should have been assigned based upon the facts and circumstances properly before the discharge authority in view of the regulations governing reasons for discharge at the time the applicant was discharged.

(2) When the board determines that an applicant's discharge was inequitable, any change will be based on the evaluation of the applicant's overall

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record of service and relevant regulations.

(f) Voting shall be conducted in closed session, a majority of the five members' votes constituting the DRB's decision.

(g) Details of closed session deliberations of a DRB are privileged information and shall not be divulged.

(h) A formal minority opinion may be submitted in instances of disagreement between members of a board. The opinion must cite findings, conclusions and reasons which are the basis for the opinion. The complete case with the majority and minority recommendations will be submitted to the Director, Air Force Personnel Council.

(i) The DRB may request advisory opinions from staff offices of the Air Force. These opinions are advisory in nature and are not binding on the DRB in its decision making process.

§ 865.111 Response to items submitted as issues by the applicant.

(a) If an issue submitted by an applicant contains two or more clearly separate issues, the DRB should respond to each issue under the guidance of this section as if it had been set forth separately by the applicant.

(b) If an applicant uses a "building block" approach (that is, setting forth a series of conclusions on issues that lead to a single conclusion purportedly warranting a change in the applicant's discharge), normally there should be a separate response to each issue.

(c) This section does not preclude the DRB from making a single response to multiple issues when such action would enhance the clarity of the decisional document, but such response must reflect an adequate response to each separate issue.

(d) An item submitted as an issue by an applicant in accordance with this regulation shall be addressed as a decisional issue under § 865.112 of this subpart in the following circumstances:

(1) When the DRB decides that a change in discharge should be granted, and the DRB bases its decision in whole or in part on the applicant's issue; or

(2) When the DRB does not provide the applicant with the full change in discharge requested, and the decision is